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City of Las Cruces[®]
 PEOPLE HELPING PEOPLE

Council Action and Executive Summary

Item # 13 Ordinance/Resolution# 14-079

For Meeting of _____
 (Ordinance First Reading Date)

For Meeting of October 21, 2013
 (Adoption Date)

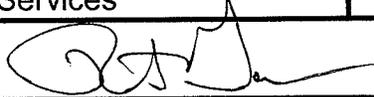
Please check box that applies to this item:

QUASI JUDICIAL LEGISLATIVE ADMINISTRATIVE

TITLE: A RESOLUTION APPROVING THE VACATION OF A PORTION OF EAST LAS CRUCES AVENUE AND THE ASSOCIATED VACATION PLAT, VACATING APPROXIMATELY 14,316 SQUARE FEET OF CITY RIGHT-OF-WAY LOCATED AT THE FARTHEST EAST DEAD-END SECTION OF EAST LAS CRUCES AVENUE AND DEEDING IT TO THE ADJACENT PROPERTY OWNER SOUTH OF THE PROPOSED VACATION AREA. SUBMITTED BY THE CITY OF LAS CRUCES.

PURPOSE(S) OF ACTION:

Authorization of vacation of right-of-way.

COUNCIL DISTRICT: 1		
<u>Drafter/Staff Contact:</u> Adam Ochoa	<u>Department/Section:</u> Community Development/Building & Development Services	<u>Phone:</u> 528-3204
<u>City Manager Signature:</u>		

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

The proposed vacation is located east of North Hermosa Street and west of Del Monte Street. This portion of East Las Cruces Avenue, formerly known as Bonanza Avenue, was designed and dedicated as part of the Gramercy Park Tract Subdivision filed in December 1910.

The proposed vacated area of East Las Cruces Avenue, shown as Tract A, will be deeded off to the adjacent property owners, Robert J. & Juanita M. Macklin, who have experienced trespassing and other issues on their property over the years during City events because of the adjacent undeveloped right-of-way area. The right-of-way area has also always been difficult to maintain and has been a liability for the City over the years and the proposed vacation will benefit the City as well as the adjacent property owners. The adjacent property owners have agreed to grant and maintain a utility easement through Tract A with the proposed vacation. The adjacent property owners have also agreed to continue to allow access to the Las Cruces Police Department for the purpose of accessing the adjacent police training facility. The access will be permitted through a private access easement that will exist on the vacated portion of

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this will approve the Resolution and vacate the 14,316 square feet of unimproved right-of-way of East Las Cruces Avenue.
2. Vote "No"; this will deny the Resolution and the unimproved right-of-way of East Las Cruces Avenue will not be vacated.
3. Vote to "Amend"; this could allow Council to modify the Resolution by adding conditions as determined appropriate.
4. Vote to "Table"; this could allow Council to table/postpone the Resolution and direct staff accordingly.

REFERENCE INFORMATION:

The resolution(s) and/or ordinance(s) listed below are only for reference and are not included as attachments or exhibits.

1. N/A

RESOLUTION NO. 14-079

A RESOLUTION APPROVING THE VACATION OF A PORTION OF EAST LAS CRUCES AVENUE AND THE ASSOCIATED VACATION PLAT, VACATING APPROXIMATELY 14,316 SQUARE FEET OF CITY RIGHT-OF-WAY LOCATED AT THE FARTHEST EAST DEAD-END SECTION OF EAST LAS CRUCES AVENUE AND DEEDING IT TO THE ADJACENT PROPERTY OWNER SOUTH OF THE PROPOSED VACATION AREA. SUBMITTED BY THE CITY OF LAS CRUCES.

The City Council is informed that:

WHEREAS, the City of Las Cruces staff is working with Robert J. & Juanita M. Macklin, the property owners, located at 1850 E. Las Cruces Avenue directly south of the proposed vacation; and

WHEREAS, the City occasionally receives requests to vacate dedicated right-of-way which no longer serves its intended purpose and often represents maintenance and liability issues to the City; and

WHEREAS, the Development Review Committee (DRC), after conducting a meeting on January 30, 2013, recommended that said vacation be approved.

NOW, THEREFORE, Be it resolved by the governing body of the City of Las Cruces:

(I)

THAT the 14,316 square foot (0.3286 acre) portion of right-of-way located at the farthest east dead-end section of East Las Cruces Avenue, in the City of Las Cruces, Dona Ana County, New Mexico, as shown in Exhibit "A," is hereby vacated as stated in Exhibit "B," and deeded to the adjacent property owners, Robert J. & Juanita M. Macklin, as conveyed in Exhibit "C".

(II)

THAT subsequent to the approval of the City Council, the duly approved East

Las Cruces vacation plat (Exhibit "A") shall obtain all necessary signatures and be filed in the Office of the Clerk of Dona Ana County, New Mexico.

(III)

THAT all utility and access easements identified on the vacation plat (Exhibit "A") are granted by Robert J. & Juanita M. Macklin, securing legal placement and access for maintenance for all applicable utilities.

(IV)

THAT City staff is hereby authorized to do all deeds necessary in the accomplishment of the herein above.

DONE AND APPROVED this _____ day of _____ 2013.

APPROVED:

Mayor

ATTEST:

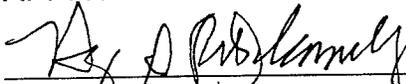
City Clerk

(SEAL)

Moved by: _____

Seconded by: _____

APPROVED AS TO FORM:



City Attorney

VOTE:

- Mayor Miyagishima: _____
- Councillor Silva: _____
- Councillor Smith: _____
- Councillor Pedroza: _____
- Councillor Small: _____
- Councillor Sorg: _____
- Councillor Thomas: _____

STATEMENT OF VACATION

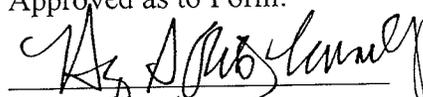
VACATE A CERTAIN PORTION OF A STREET, BEING TRACT A OF THE EAST LAS CRUCES AVENUE RIGHT-OF-WAY VACATION PLAT, LOCATED EAST OF THE INTERSECTION OF HERMOSA STREET AND LAS CRUCES AVENUE IN THE CITY OF LAS CRUCES, DONA ANA COUNTY, NEW MEXICO.

The City of Las Cruces, owner of a street described as a portion of East Las Cruces Avenue shown as Tract A of the East Las Cruces Avenue Right-of-Way Vacation Plat filed on _____, 2013 in Plat Book _____, Page _____ of the records of Dona Ana County and depicted on Exhibit "A" attached hereto and made a part hereof, does hereby declare, in accordance with Section 3-20-12 (A)(1), NMSA 1978, such portion of Las Cruces Avenue to be vacated. As grounds therefore, it further states that said roadway no longer functions as originally intended, and the vacation will not adversely affect the interests or rights of any of the owners in the property contiguous to said street.

City of Las Cruces

Mayor Ken Miyagishima

Approved as to Form:



City Attorney

State of New Mexico)
)ss.
County of Dona Ana)

The forgoing instrument was acknowledged before me this _____ day of _____, 2013, by Ken Miyagishima, Mayor of the City of Las Cruces, a New Mexico municipal corporation, on behalf of said corporation.

My Commission Expires: _____

Notary Public

QUITCLAIM DEED

CITY OF LAS CRUCES, for valuable consideration, quitclaims to Robert J. Macklin and Juanita M. Macklin as joint tenants, whose address is 1850 E. Las Cruces Avenue, Las Cruces, New Mexico 88001, the following described real estate in Doña Ana County, New Mexico.

A tract of land situated within the corporate limits of the City of Las Cruces, Doña Ana County, New Mexico being Tract A of the East Las Cruces Avenue Right-of-Way Vacation Plat, as recorded on _____, 2013 in Plat Book _____, Page _____, of the records of Doña Ana County, a copy of which is attached as Exhibit "A".

Subject to all reservations, covenants, easements and restrictions of record.

WITNESS its hand and seal this _____ day of _____, 2013.

CITY OF LAS CRUCES

By: _____
Ken Miyagishima, Mayor

APPROVED: _____
Marcia B. Driggers
Senior Ass't City Attorney

ACKNOWLEDGMENT FOR CORPORATION

STATE OF NEW MEXICO)
) ss.
COUNTY OF DOÑA ANA)

The foregoing instrument was acknowledged before me this _____ day of _____, 2013 by Ken Miyagishima, Mayor of the City of Las Cruces, a New Mexico municipal corporation, on behalf of said corporation.

My Commission Expires:

(Seal)

Notary Public



City of Las Cruces

DEVELOPMENT REVIEW COMMITTEE (DRC)

The following are the verbatim minutes of the Development Review Committee (DRC) who met on **Wednesday, January 30, 2013 at 9:00 A.M.** in Room 1158 located at the City Hall, 700 North Main Street, Las Cruces, New Mexico.

DRC PRESENT: Katherine Harrison-Rogers, Community Development
 Meei Montoya, Utilities
 Phil Catanach for Mark Johnston, Facilities
 Rocio Dominguez, Community Development
 Andrew Wray for Tom Murphy, MPO

DRC ABSENT: Mark Dubbin, Fire Department

STAFF PRESENT: Adam Ochoa, Community Development
 Susana Montana, Community Development
 Bill Hamm, Public Works, Land Management
 Scott Farnham, Public Works
 Robert Benavidez, Public works
 Bonnie Ennis, Community Development

OTHERS PRESENT: None

I. CALL TO ORDER (9:00 am)

Katherine Harrison Rogers called the meeting to order.

II. APPROVAL OF MINUTES

The first item is approval of the minutes for January 23, 2013.

1. January 23, 2013

Harrison-Rogers: The first item is approval of the minutes for January 23, 2013. Is there any discussion, changes, motion?

Dominguez: Rocio Dominguez. So moved.

Harrison-Rogers: Is there a second?

1
2 Montoya: Second. Meei Montoya.

3
4 Harrison-Rogers: And a vote?

5
6 All: Aye.

7
8 Harrison-Rogers: All right, we'll call it unanimous.

9
10 **III. OLD BUSINESS – None**

11
12 Harrison-Rogers: There is no old business on the agenda.

13
14 **IV. NEW BUSINESS**

15
16 **1. S-12-046: East Las Cruces Avenue Right-of-Way Vacation Plat**

- 17 • A request for approval of a vacation plat known as the East Las Cruces Avenue Right-of-Way Vacation Plat.
- 18 • The vacation plat is for a 238.91 ± foot section of Las Cruces Avenue located east of Hermosa Street and west of Del Monte Street.
- 19 • Submitted by the City of Las Cruces, property owner.

20
21
22
23 Harrison-Rogers: New business: we have one case: S-12-046, it's East Las Cruces Avenue Right-of-Way Vacation Plat. I'm going to give it over to Mr. Ochoa to discuss.

24
25
26
27 Ochoa: Thank you, Chair. For the record, Adam Ochoa with the Building and Development Services. The one case we're looking at today is that case S-12-046. It is the East Las Cruces Avenue Right-of-Way Vacation Plat. It is a vacation of a section of East Las Cruces Avenue. It is on the very far east side of what is Las Cruces Avenue, which would be east of Hermosa Street and west of Del Monte Street, which really doesn't exist there but it's the right-of-way on Del Monte Street. The piece of tract is an approximately 238 feet long section encompassing approximately 0.33 acres in size. This tract is being vacated and will be given to the adjacent southern part of the property's owner by the City of Las Cruces. It went out for review a couple times and all reviewing parties recommend approval for the subdivision. Just from Community Development's standpoint a vacation plat is not required to have Planning and Commission's signatures on there; but we have seen a couple of these before plus we do have a place for the Mayor and the City Clerk to sign off so we're okay with it the way it is. I stand for questions.

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44 Harrison-Rogers: All right. I'll go around the room and see if there's any discussion on that. I'll look to Utilities first.

45
46

- 1 Montoya: No comment.
2
- 3 Harrison-Rogers: No comment. Parks and Rec?
4
- 5 Catanach: Parks and Rec. No comment.
6
- 7 Harrison-Rogers: No comment. Land Management.
8
- 9 Hamm: Yeah, this project was cleaning up an old problem. The gentleman that's
10 going to be getting the deed to this property has, over the years,
11 experienced trespassing on his property during city events and what not.
12 Obviously that segment of platted right-of-way was never developed and it
13 became a maintenance and liability nightmare for the City over the years
14 so this is something that certainly everybody comes out a winner. So it's
15 certainly not needed. The Police Department will retain their access for
16 their training facility next door so it'll clean up a problem.
17
- 18 Harrison-Rogers: Thank you. MPO?
19
- 20 Wray: Andrew Wray for MPO. No comments.
21
- 22 Harrison-Rogers: All right; and the Engineer? Any comments?
23
- 24 Dominguez: No comments.
25
- 26 Harrison-Rogers: Scott, did you have anything to add?
27
- 28 Farnham: Scott Farnham. I just wanted to get some further clarification on the
29 process after this. From what I understand we're going to have a petition
30 signed by the property owners that that access is being affected and the
31 Statement of Vacation would also be a part of this, along with a quit claim
32 deed that would be conveyed and, from what I understand this goes as a
33 Resolution, along with the plat to City Council.
34
- 35 Harrison-Rogers: That is correct. It will be an exhibit to the Resolution, essentially.
36
- 37 Ochoa: Correct.
38
- 39 Hamm: Bill Hamm, Land Management. You had a question about the Statement
40 of Vacation. The question regarding the Statement of Vacation was: is
41 that something that can actually be part of a plat note or is that required to
42 be a separate recorded document?
43
- 44 Harrison-Rogers: I think it can be on the plat. Your dedication's on the plat. I think
45 the Statement of Vacation can also be on the plat.
46

1 Hamm: Okay.
2
3 Farnham: Okay.
4
5 Harrison-Rogers: And I think we've done that in the past.
6
7 Ochoa: That is correct. That has been done in the past. Adam Ochoa,
8 Development Services. That's definitely something that can be done. We
9 have, in the past, kind of required them to be separate but since they're all
10 being recorded together anyway, and if we then put that on the plat it
11 definitely won't be an issue
12
13 Harrison-Rogers: Any other questions?
14
15 Farnham: I wanted to make a couple of minor changes.
16
17 Harrison-Rogers: Sure.
18
19 Farnham: Can I work that out with Adam?
20
21 Harrison-Rogers: You would work that out with Adam. Yes.
22
23 Farnham: Okay.
24
25 Harrison-Rogers: With that, do I hear a motion on this case?
26
27 Dominguez: Rocio Dominguez. So moved.
28
29 Montoya: Second. Meei Montoya.
30
31 Harrison-Rogers: And a vote.
32
33 All: Aye.
34
35 Harrison-Rogers: It's unanimous. Please note that Fire is not present today.
36
37 **V. ADJOURNMENT (9:07 am)**
38
39 Harrison-Rogers: Is there a motion for adjournment?
40
41 Montoya: Move to adjourn.
42
43 Harrison-Rogers: Meei. And is there a second?
44
45 Dominguez: Second.
46

1 Harrison-Rogers: Rocio. And we are adjourned and we are adjourned at
2 approximately seven after.

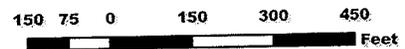
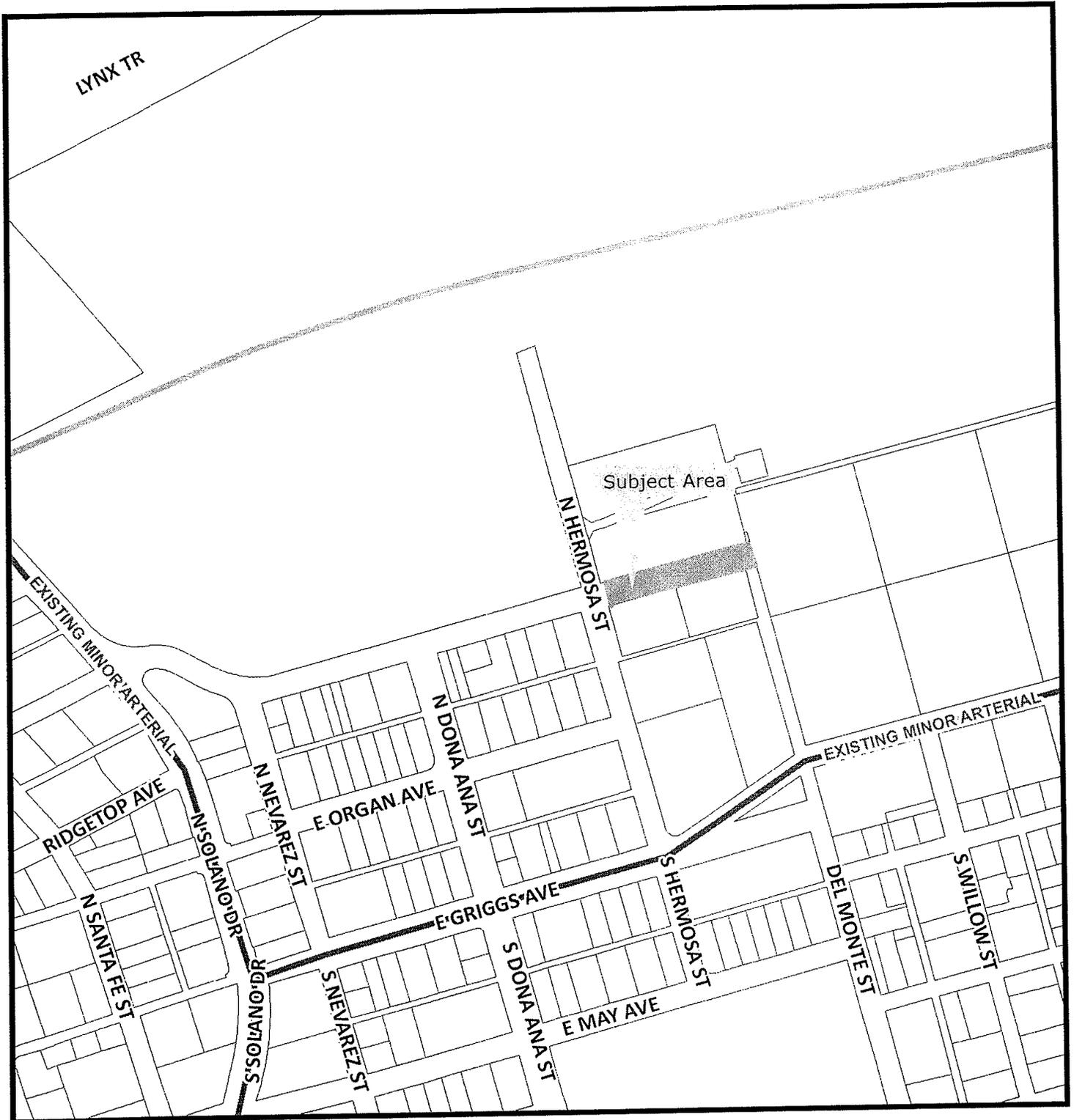
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4

5

6 _____
Chairperson

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Location Vicinity Map



Community Development Department
 700 N Main St
 Las Cruces, NM 88001
 (575) 528-3222

Legend

-  Interstates_Highway
-  EBID Water System
-  Railroad

This map was created by Community Development to assist in the administration of local zoning regulations. Neither the City of Las Cruces or the Community Development Department assumes any legal responsibilities for the information contained in this map. Users noting errors or omissions are encouraged to contact the City (575) 528-3043.